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EdTech Day 2008

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Keynote: The Fair Use Game

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Presenter Information

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The Fair Use Game

EdTech Day 2008



IPR Advisory Board

- *Mission:* The mission of the Intellectual Property Rights Advisory Board shall be to inform and guide the BSC community about copyright compliance and highlight the importance of intellectual property law in all functions at BSC.
- *Contact:* ipr@bridgew.edu
- *Web site:* <http://www.bridgew.edu/library/ipr/>



The Law: USC Title 17

§ 107 • Limitations on exclusive rights: Fair use Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the **factors** to be considered shall include—

- (1) the **purpose** and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- (2) the **nature** of the copyrighted work;
- (3) the **amount** and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the **effect** of the use upon the potential market for or value of the copy-righted work. The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

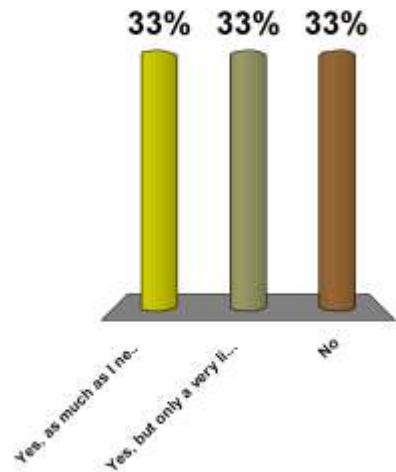


The “Four Factor Test”

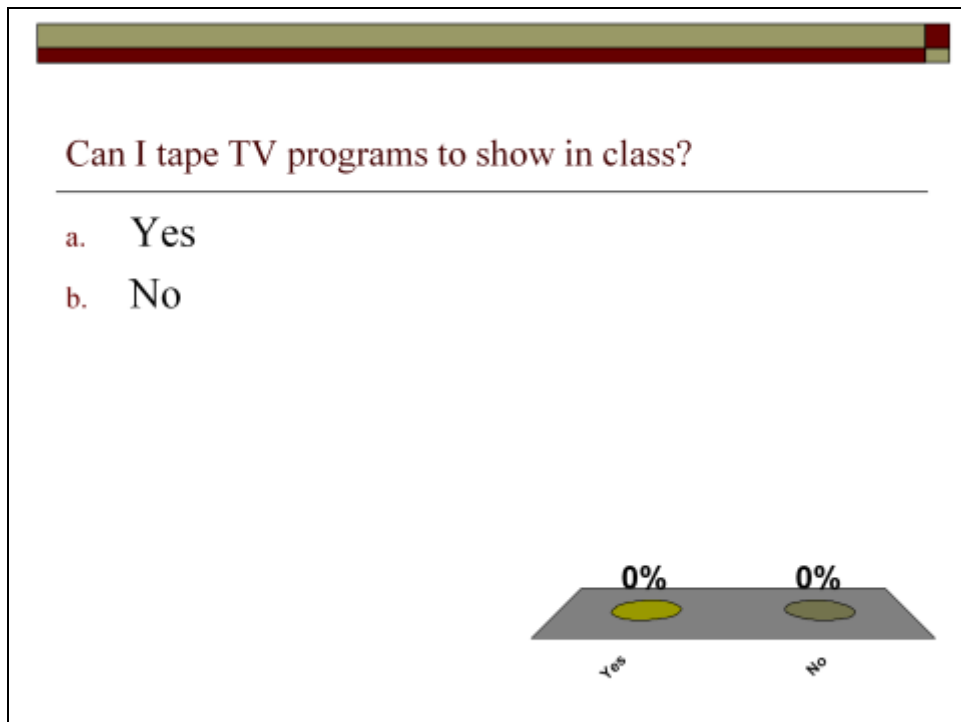
- Purpose
- Nature
- Amount
- Effect

Can I photocopy and distribute text from textbooks, journals, and newspapers to my students?

- a. Yes, as much as I need for my course work
- b. Yes, but only a very limited amount
- c. No

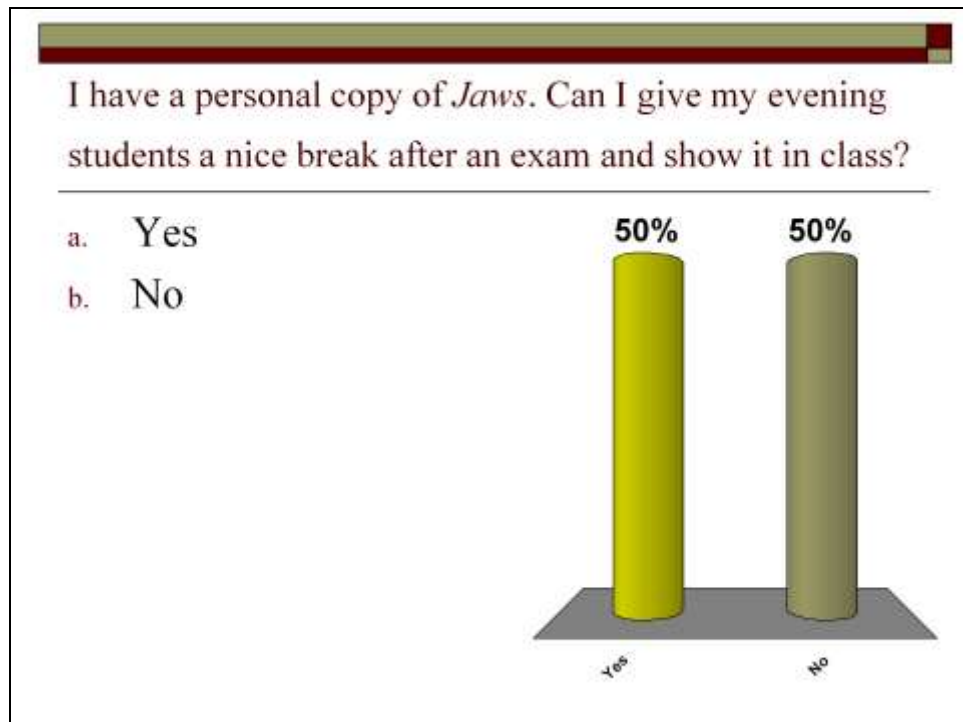


You can scan up to 1,000 words or 10% (whichever is less) of the text source. If you need to use more content than that, contact the copyright holder and ask permission. Be sure to keep the four fair use factors in mind, and always properly cite your sources.

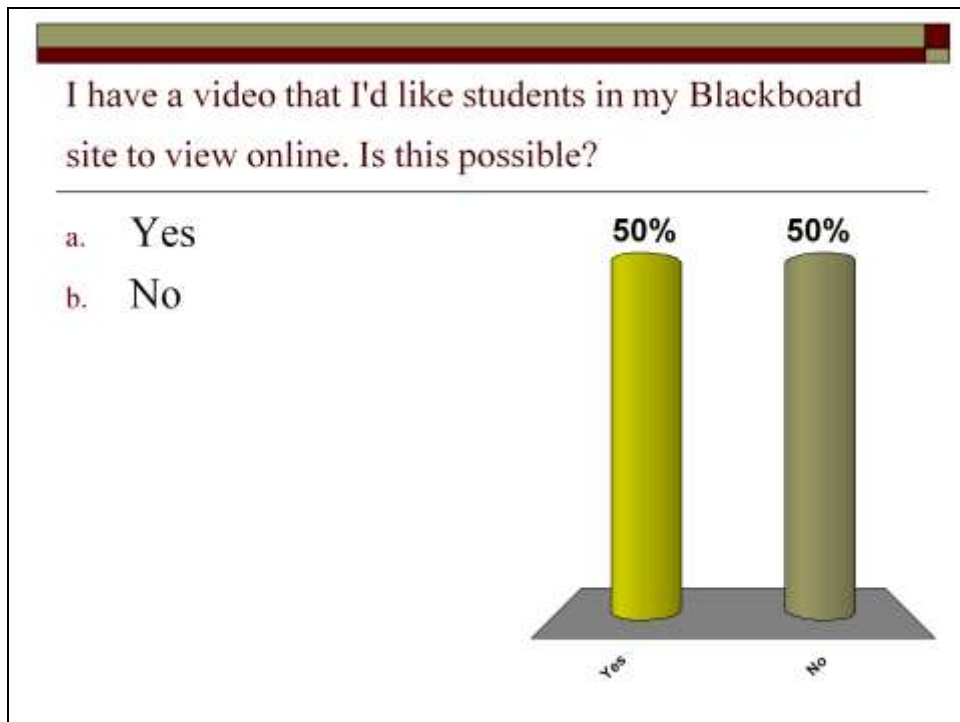


For the first 10 days after you have taped the program, you may show the tape in class twice - once for initial instruction and a second time for reinforcement. You can retain your copy of the tape for your own review for 45 days, at which time you must destroy your copy of the taped program (copying over the tape is fine). If you require more viewing time than these restrictions allow, check the station's web site, for many television stations will offer more extensive rights to educators (such as PBS). In addition, you can contact the television station to request additional viewing rights.

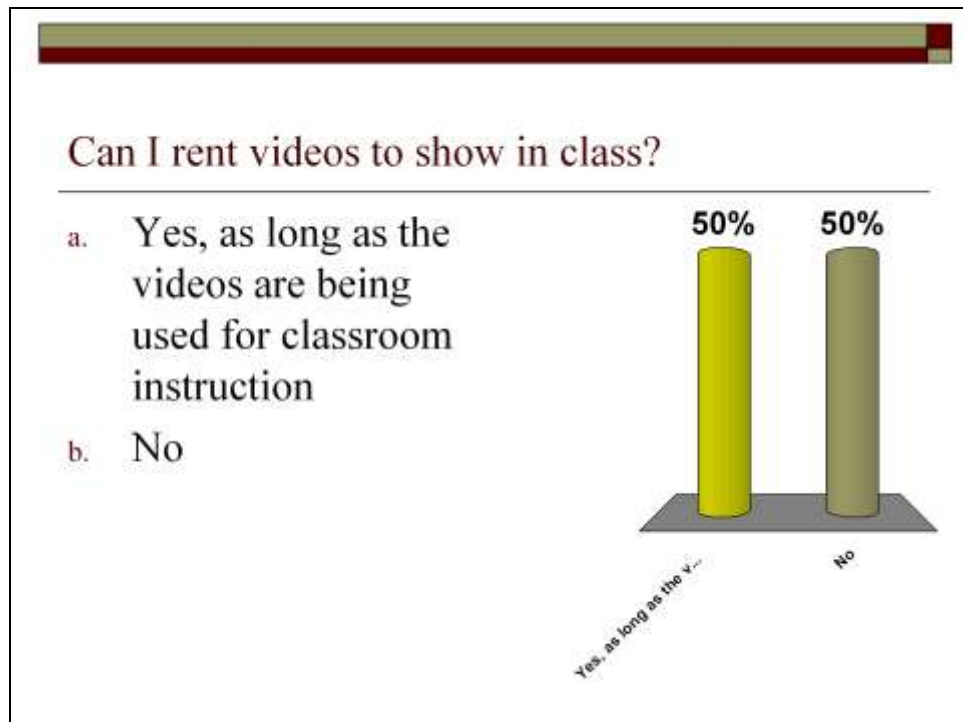
You cannot edit the tape, so do not remove commercials. You can choose to fast forward over commercials and sections of the program while playing the video in class, however.



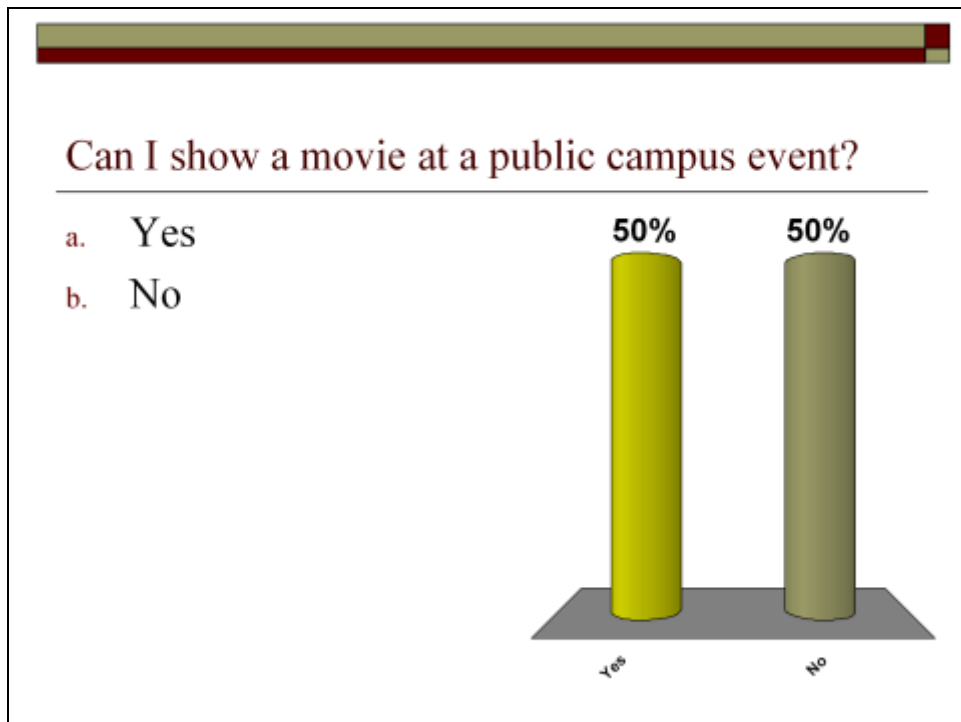
No. You are not allowed to show a movie in class for entertainment purposes unless you have expressed written consent, you have paid the copyright holder (or a licensing firm) for the rights to show the movie in class for entertainment purposes, or the movie is in the public domain.



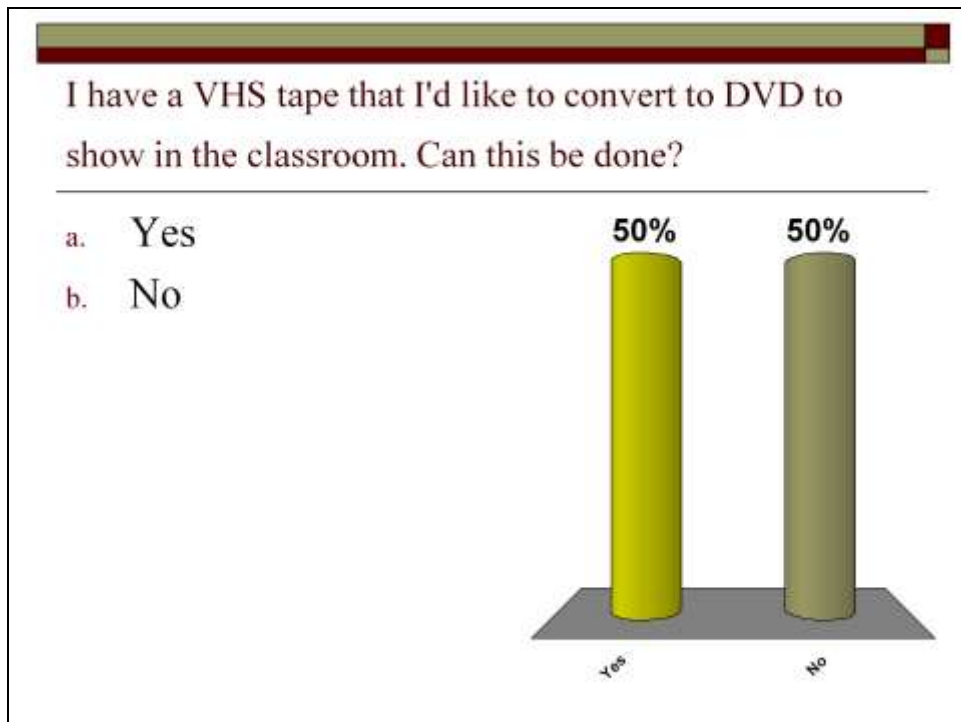
If the College owns the video, you can have the video placed on the College's streaming video server (operated by the TV Studio folks) for a 10 day period. If the College does not own the video, contact the Maxwell Library to see if they can purchase a copy of the video. Once the video is owned by the College, you can contact the TV Studio folks to have the video placed on the streaming server for a 10 day period of your choice for the given semester.



Yes, as long as the videos were legally obtained and the use is for face-to-face instruction in a nonprofit educational institution.

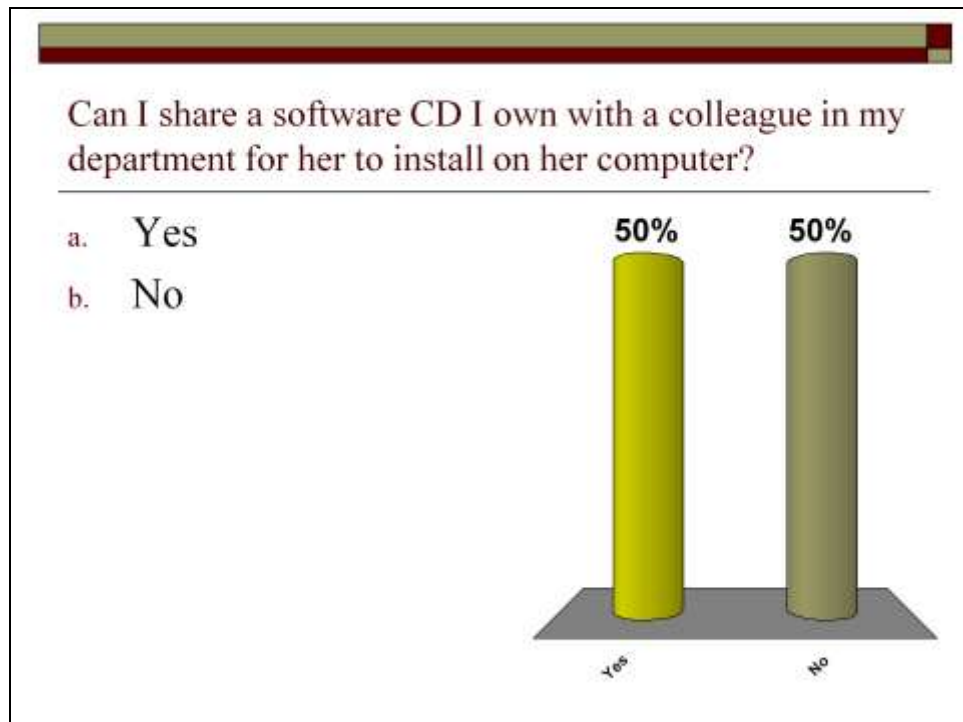


If the Library does not own the rights to a particular video, and the video is not in the public domain, you will need to request permission with the owner of the copyright, and perhaps pay a license fee for the public display of the movie.

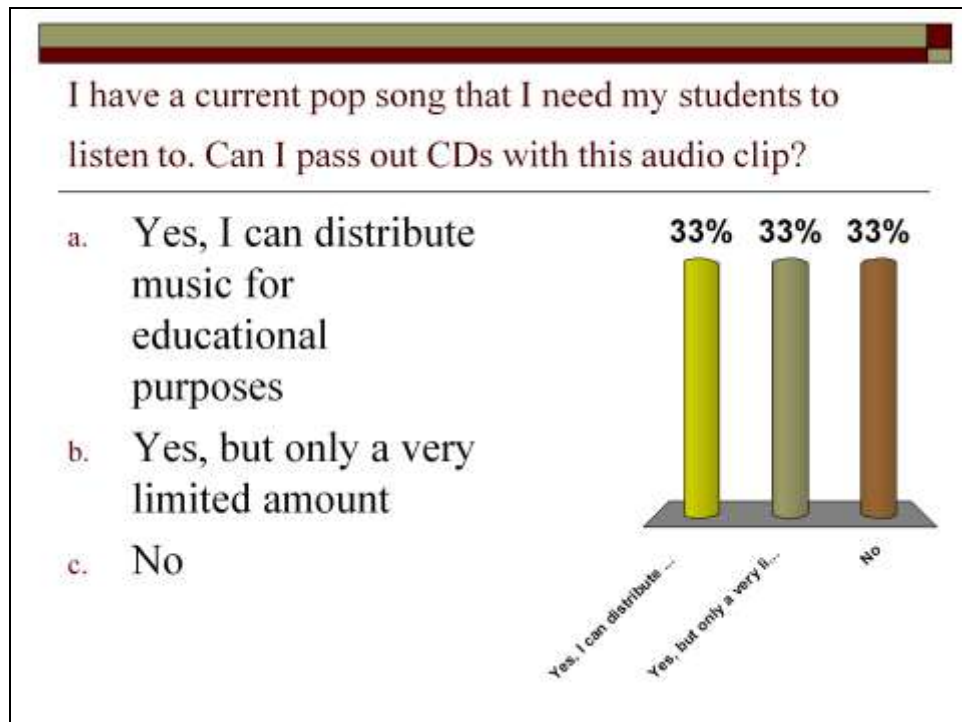


You cannot convert multimedia from one format to another format (VHS to DVD, tape to CD, etc.) unless you have written permission from the copyright owner, the video is in the public domain, or in certain circumstances, such as:

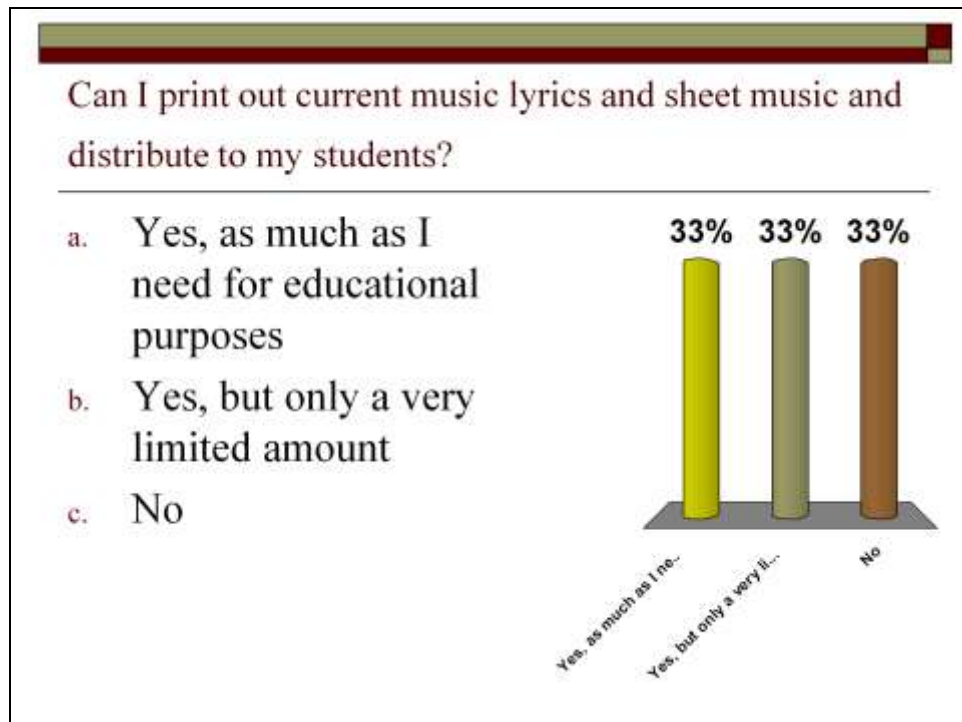
- * you're making a backup copy of a video for your own archives
- * ex. VHS players are not available for viewing purposes, and the video does not come in DVD format, so convert the VHS tape to DVD format



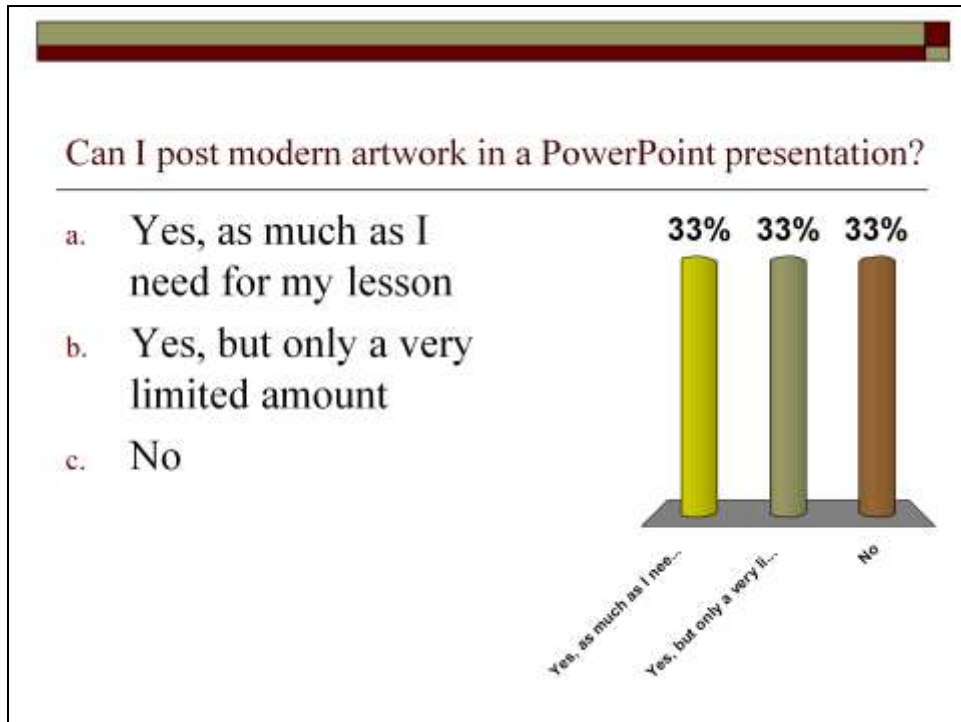
No, not unless you purchase additional licenses or have the expressed written consent of the software company. You can create 1 backup copy for your own personal archives. You cannot share or distribute this copy to others, however.



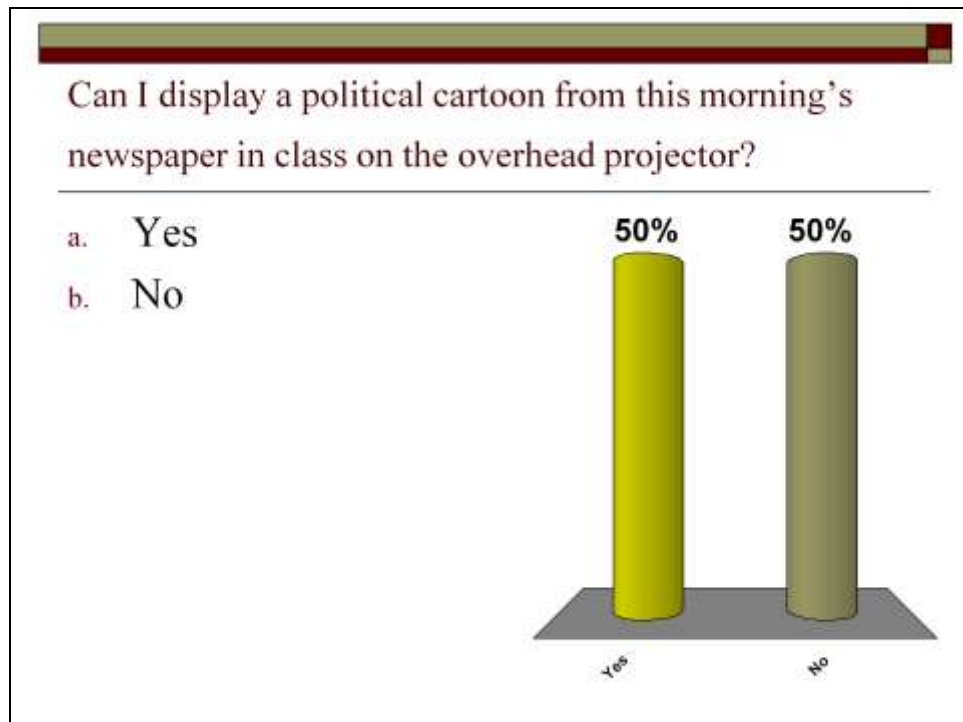
No, not unless you have permission from the copyright owner or the music clip is in the public domain. An alternative solution is that you could digitize 10% or 30 seconds of each audio clip, keeping the four fair use factors in mind.



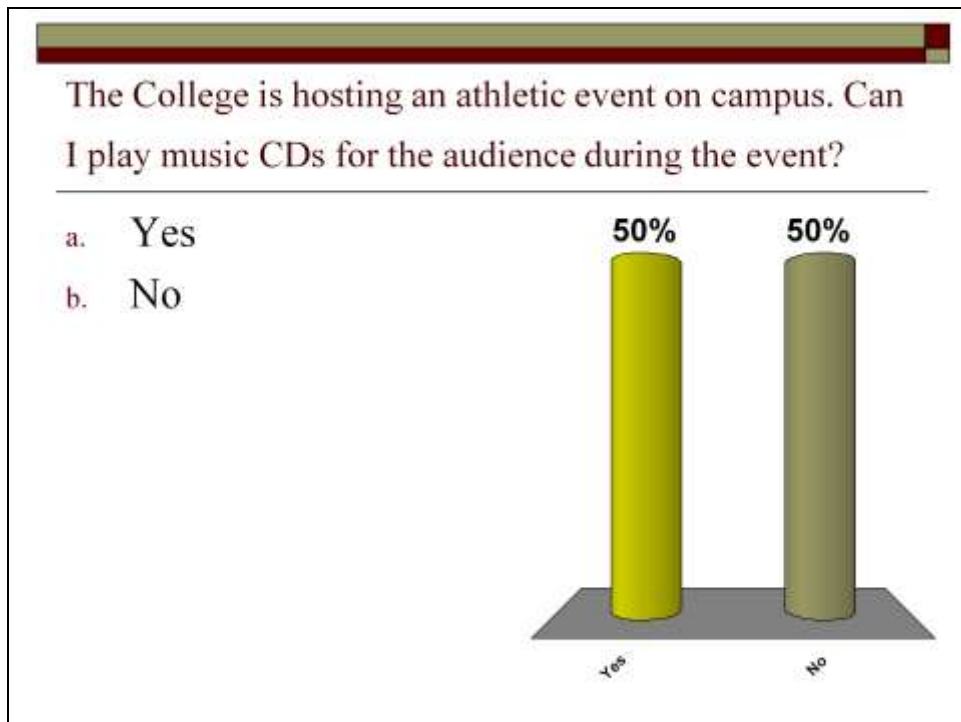
No. Do not print and distribute lyrics and sheet music unless they are in the public domain or you have written permission from the copyright holder. You can use up to 10% of the lyrics and sheet music as fair use. Be sure to keep the four fair use factors in mind, and always properly cite your sources.



You can post up to 5 photographs and illustrations by the same artist or 15 from a single, collected work, as long as the four fair use factors are met. Be sure to properly cite your sources.



Yes, if the newspaper cartoon was part of that day's newspaper and fits the four fair use factors (in particular, spontaneity), you could display that day's political cartoon in class on the overhead projector.



Only if you have expressed written consent or you have paid the copyright holder (or a licensing firm) for the rights to publicly play the music for a live audience. Otherwise, you cannot play the music from the CDs.



Questions?
